IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 549 OF 2003

MASTER PRAJEET NAIK, PANAJI-GOA. ....Petitioners

Versus

GOA BOARD OF SECONDARY & HIGHER SECONDARY EDUCAT. ....Respondents

SHRI A.D. BHOBE,SHRI J.P. MULGAONKAR

Coram:- A.M.KHANWILKAR & P. V. HARDAS, JJ.

Date:- 19th November, 2003

P.C.:

This Writ Petition under Article 226 of the Constitution of India seeks to challenge the Show Cause Notice dated July 9, 2003 and the Intimatin dated 20th/21st August, 2003 cancelling the Petitioner's result of March, 2003 in respect of S.S.C. Examination. The Petitioner further prays that he be permitted to keep term for XIth Standard Commerce in the "D.C.T.'s Voicuntrao Sinai Dempo Higher Secondary School of Commerce", Miramar, Panaji, where he has already been admitted to the XIth Standard after declaration of results in June, 2003.

For the Order that we propose to pass, we are not adverting to all the contentions raised on behalf of the Petitioner. Because in our opinion, the

Petitioner has not been afforded fair opportunity before taking decision of cancelling his results in respect of March, 2003 Standard 10th (S.S.C.) Examination.

Indeed, the Respondent had issued Show Cause Notice to the Petitioner to show cause why such action should not be taken against him, but along with the said Show Cause Notice no material has been furnished to the Petitioner drawing his attention to the relevant materials on the basis of which the proposed action was founded. Moreover, the Show Cause Notice is too vague as it does not spell out the basis on which the action was contemplated against the Petitioner, amongst others, the material found against the Petitioner during the course of enquiry. In the circumstances, it will not be necessary for us to go into the question whether the Respondent was obliged to give personal hearing to the Petitioner. Be that as it may, to observe fairness of the proceedings/ action, the Respondent was obliged to offer proper opportunity to the Petitioner as may be permissible by law. In our view, it was imperative on the Respondent to furnish the relevant materials to the Petitioner on the basis of which it had decided to take drastic action of cancelling the Petitioner's examination result in respect of 10th

Standard (S.S.C.) Examination held in March, 2003. On this count alone, we are allowing this Writ Petition and making it clear that it will be open to the Respondent to initiate action against the Petitioner by issuing fresh Show Cause Notice and furnishing necessary relevant materials on the basis of which the action is founded and also afford necessary opportunity as may be permitted by law. All questions are left open in the said proceedings.

Petition is allowed in terms of prayer clauses (i) and (ii) which read thus:-

i) Fora a Writ of Certiorari, or any other writ, direction or order in the nature of certiorari, calling for the records and proceedings of the case, and quashing and setting aside, the Show Cause Notice dated 9th July 2003 and the Intimation dated 20th/21st August 2003, cancelling the result of March 2003 S.S.C. Examination of the Petitioner;

ii) For a Writ Mandamus, or any other writ, direction or order in the nature of Mandamus, commanding the Respondent to restore to the Petitioner, the result of March 2003 S.S.C. Examination of the Petitioner; and return to him his original passing Certificate cum Statement of marks; and permit him to keep term for XIth Standard Commerce in the "D.C.T.'s Voicuntrao Sinai Dempo

Higher Secondary School of Commerce",
Miramar, Panaji".

A.M.KHANWILKAR, J.

P. V. HARDAS, J.